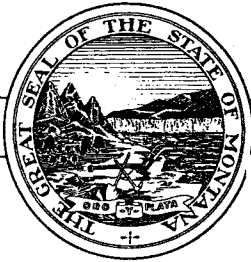


EXHIBIT 6
DATE 3-21-07
FILE 3
OFFICE OF THE STATE PUBLIC DEFENDER



BRIAN SCHWEITZER
GOVERNOR

RANDI HOOD
CHIEF PUBLIC DEFENDER

STATE OF MONTANA

Phone: (406) 496-6080
Fax: (406) 496-6098

44 WEST PARK STREET
BUTTE, MONTANA 59701

March 21, 2007

House Appropriations Committee
C/O Chairman John Sinrud
P.O. Box 201711
Helena, MT 59620-1711

RE: FY 2007 Supplemental Request – Office of the State Public Defender

Dear Chairman Sinrud and Members of the House Appropriations Committee:

As per a request from Representative Glaser today, this letter provides a written response explaining our agency's need for supplemental funding for FY 2007. During my testimony on HB 3 on March 19, I indicated that our supplemental request is \$5.4 million. The following paragraphs explain our need for this funding.

The Office of the State Public Defender (OPD) was established by Title 47, MCA to provide statewide public and appellate defender services, with oversight by the Montana Public Defender Commission. As per Title 47 the Commission and I and my staff were provided the monumental task of designing and implementing a statewide public defender system that would address all of the shortfalls that existed in public defense throughout the state. Many of these shortfalls were identified in a lawsuit between the American Civil Liberties Union as plaintiff and the State of Montana as defendant. As you are probably aware, prior to the creation of OPD, public defense was managed by Montana's counties and cities. We now have one system in place that manages all cases in Montana. I believe that this single system provides adequate public defender services as required by Title 47 and averts a major lawsuit for the state.

We are a new agency that began operations on July 1, 2006 (the beginning of FY 2007), only eight months ago. During this period of time we determined that the funding our agency received from the 59th Legislature is insufficient to provide adequate public defender services as required by the Montana Public Defender Act. For example, our agency received approximately \$8.2 million to provide public defender services in Montana's 56 district courts for FY 2007. The \$8.2 million in funding was the amount expended by the district court program in FY 2004 and was used as the estimate for similar services to be provided during FY 2007 without inflating the amount to FY 2007 dollars or allowing for potential changes in caseloads.

As you may recall, public defender services in district courts were managed by Montana's counties but paid by Montana's Judicial Branch through FY 2006. We recently learned, from information provided by the Legislative Fiscal Division and the Office of the Supreme Court Administrator that during FY 2006 the district court program expended approximately \$12 million for public defender services in district courts. (A copy of this information is enclosed.) If you compare the \$8.2 million in funding for FY 2007 provided to our agency by the legislature to the FY 2006 actual expenditures of \$12 million, we have a \$3.8 million shortfall. This shortfall is 70.3 percent of our total shortfall.

We are also responsible for providing public defender services in over 160 courts of limited jurisdiction that include justice, city, and municipal courts. Funding provided by the 59th Legislature for this activity was approximately \$1.8 million. This estimate was based on a survey conducted by the Montana Association of Counties of public defender expenditures made by its member counties during FY 2004, and from high level estimates for city and municipal court expenditures. These estimates were not inflated from FY 2004 to FY 2007 dollars for the same reasons noted above. However, our expenditures for this activity from July 1 through November 30, 2006 (42 percent of the entire year) were approximately \$1.3 million.

At the time these estimates were produced, there were no reliable statewide caseload statistics to determine if caseloads were stable, in decline, or growing. Our agency is beginning to track all of the cases that enter our system and since July 1, 2006 we have received more than 11,500 district court and over 11,000 limited court cases.

Finally, as the result of the Montana Public Defender Act, our agency was given additional duties to provide public defender services to clients charged with crimes committed in institutions, for expanded representation to parents in dependent and neglect cases, for representation of incapacitated persons, and to provide expanded appellate defense services. All estimates for these activities were very high level and were based in FY 2004 dollars for the same reasons as noted above.

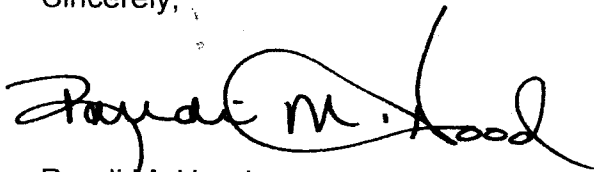
If the original costs for activities provided in limited courts and the additional services noted above were inflated from FY 2004 to FY 2007 dollars it would explain nearly \$400,000 or 7 percent of our total supplemental request.

After careful consideration and much input from many interested parties, the Montana Public Defender Commission decided to establish new public defender offices in parts of the state that had a significant concentration of population and establish some small regional offices in remote areas of north central, central, and eastern Montana. This was done to assure that OPD could provide a base level of public defender services everywhere in the state. We estimate that we will incur approximately \$800,000 in one-time expenditures primarily related to this activity. This amount represents about 15 percent of our total supplemental request.

You may ask why our request for supplemental has been amended from \$3.3 million to \$5.4 million. The first amount was developed nearly one year ago and was used as a place holder until we could get a final number as the year progressed.

Members of the House Appropriations Committee, I can assure you that my staff and I are committed to doing everything that we can to control all costs associated with our activities and we are starting to see some success. Unfortunately, we can not control the number and kind of cases that come into our system. If I can provide any further information, please call me at 406-496-6082, or Harry Freebourn, my Administrative Director, at 406-496-6084.

Sincerely,

A handwritten signature in black ink, appearing to read "Randi M. Hood". The signature is fluid and cursive, with a large loop at the end.

Randi M. Hood
Chief Public Defender

CC: Mr. David Ewer
Mr. Brent Doig

2 enclosures

Agency Discussion

Goals and Objectives:

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the legislature may wish to review the following:

- o Goals, objectives and year-to-date outcomes from the 2007 biennium
- o Goals and objectives and their correlation to the 2009 biennium budget request

Any issues related to goals and objectives raised by LFD staff are located in the program section

2007 Initiatives Summary

The following paragraphs summarize information related to new initiatives funded by the legislature for the 2007 biennium.

Information Technology Needs

The legislature provide \$1,095,000 general fund in a one-time only appropriation for information technology needs of the branch including the purchase of software licenses and continued implementation of the FullCourt Case Management System (FullCourt). FullCourt has been implemented in courts of limited jurisdiction accounting for 98 percent of the caseload, installation in 2 more courts of limited jurisdiction is scheduled, 13 courts of limited jurisdiction have declined installation, and the software will not be installed in 7 courts of limited jurisdiction with very low caseloads. FullCourt has also been implemented in the Fourth Judicial District (Missoula/Mineral) and the branch projects implementation in up to seven judicial districts by the end of FY 2007.

New Judgeship

The legislature provided \$428,092 general fund to support a new judgeship in the Eighteenth Judicial District (Gallatin County), including funding for 2.00 FTE in FY 2006 with an increase to 4.00 FTE in FY 2007. The new judge assumed office and three staff were hired in January, 2006. The branch estimates that the district will have about 878 cases per judge in calendar year 2006, a reduction in the per judge caseload from 1,499 in 2005 and 1,362 in 2004. Total case filings for the year are estimated at 2,636 in 2006 and were 2,999 in 2005 and 2,725 in 2004.

Water Rights Adjudication

The legislature provided \$833,380 state special revenue from a new fee to accelerate adjudication of water rights claims, including 6.50 FTE in FY 2006 with an increase to 7.00 FTE in FY 2007. Hiring of staff was delayed due to the need for additional office space and remodeling to accommodate the expansion of staff. The followings staff members where hired on the dates specified: deputy clerk 10/31/05; 1 water master and 1 law clerk 1/4/06; 1 law clerk 4/3/06; 1 water master 6/30/06; and 1 law clerk 8/21/06. As of November, 2006 the water court is fully staffed with one exception, a part-time clerical position. Training of staff continues with training of some staff to the level necessary for them to work without close supervision expected to take a year or more.

Removal of Public Defender Costs

The FY 2006 base budget for the branch is reduced by \$9.5 million to reflect the implementation of a new statewide public defender system and the movement of responsibility for these costs from the judicial branch to a new executive branch agency, the Office of the Public Defender. SB 146 of the 2005 session, known as the Montana Public Defender Act, provided for the creation of a new statewide system for the provision of public defender services and assigned responsibility for this system to a new executive branch agency effective July 1, 2006 (FY 2007). Prior to the implementation of the new statewide public defender system responsibility for funding of public defenders services was the responsibility of either the state via the District Court Operations Program in the Judiciary or county and city governments, depending upon the nature of the expenditure and whether it involved a case heard in district court or a court of limited jurisdiction. Under the new statewide public defender system responsibility for funding and provision of public defender services for both district courts and courts of limited jurisdiction became the responsibility of the state.

Additional information related to the new statewide public defender system may be found under the Office of the Public Defender in this volume of the Legislative Budget Analysis for the 2009 Biennium.

Funding

The following table summarizes funding for the agency, by program and source, as recommended by the Governor. Funding for each program is discussed in detail in the individual program narratives that follow.

Total Agency Funding 2009 Biennium Executive Budget					
Agency Program	General Fund	State Spec.	Fed Spec.	Grand Total	Total %
01 Supreme Court Operations	\$ 15,972,589	\$ 220,084	\$ 251,259	\$ 16,443,932	23.91%
02 Boards And Commissions	579,103	50,012	-	629,115	0.91%
03 Law Library	1,717,049	-	-	1,717,049	2.50%
04 District Court Operations	45,917,050	506,894	-	46,423,944	67.52%
05 Water Courts Supervision	-	2,708,937	-	2,708,937	3.94%
06 Clerk Of Court	837,627	-	-	837,627	1.22%
Grand Total	\$ 65,023,418	3,485,927	\$ 251,259	\$ 68,760,604	100.00%

The judicial branch is funded primarily with general fund (95 percent), while state special revenue provides about 5 percent and federal funds provide less than 1 percent. The largest sources of state special revenue are renewable resource and water adjudication fees that support the Water Court. Other sources of state special revenue include a portion of the dissolution of marriage fee that supports civil legal services for indigent victims of domestic violence, and county payments for accumulated sick and annual leave for individuals who became state employees at the time of district court assumption.

2009 Biennium Budget

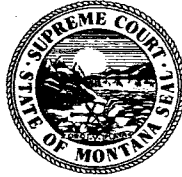
2009 biennium funding for the judicial branch decreases about \$0.4 million when compared to the 2007 biennium. The removal of \$9.5 million for public defender costs that are not the responsibility of another state agency are offset by a \$7.7 million increase in statewide present law adjustments, primarily for personal services and computer network connection fees. State special revenue increases about \$600,000 due to increased funding from water adjudication fees and accrued leave payments related to individuals who became state employees when state assumption of district court costs was implemented. Federal funds from pass-thru-grants decrease about \$600,000 between the two biennia. About \$88,000 of this reduction is because the state will no longer receive the federal court appointed special advocate (CASA) grant since the CASA program has become a non-profit organization.

Supplemental

The judicial branch intends to request a supplemental appropriation of \$2.5 million for the 2007 biennium to replace general fund transferred from FY 2007 to FY 2006 and expended in FY 2006. This supplemental is related to variable costs in district court operations, which include costs of public defender services, criminal and civil juries, transcripts, contracted court reporters, guardian ad litem, court appointed special advocates, evaluations, witnesses and private investigators. A portion (\$636,300) of the cost overrun in district court variable costs was offset by savings in other portions of the District Court Operations Program and the judicial branch. The cost over run in the judicial branch was related to FY 2006, the year prior to the transfer of responsibility for public defender costs to a new agency, the Office of Public Defender. The Public Defender Office, an executive branch agency, anticipates a supplemental appropriation request of about \$3.3 million for the 2007 biennium, primarily related to FY 2007 costs. More information on the Office of Public Defender cost and supplemental appropriation request may be found in this volume of the Legislative Budget Analysis, Office of Public Defender narrative.

The Supreme Court of Montana
Office of Court Administrator

Lois Menzies
Court Administrator
e-mail: lmenzies@mt.gov



301 South Park Avenue, Room 328
PO Box 203005
Helena, Montana 59620-3005
Phone: (406) 841-2944
Fax: (406) 841-2955

TO: Members of the Joint Appropriations Subcommittee on General Government and Transportation

FROM: Lois Menzies, Court Administrator

DATE: February 1, 2007

SUBJECT: Indigent Defense Costs

Attached is a spreadsheet listing Judicial Branch expenditures for indigent defense by cost type for FY 2006. The expenditures are grouped according to FY 2006 base expenditures and expenditures paid from funds moved from FY 2007 (supplemental expenditures).

This spreadsheet was compiled from data in the Statewide Accounting, Budgeting, and Human Resource System (SABHRS), which the Branch is statutorily required to use for accounting and other purposes. The Branch does not operate or maintain any stand-alone or separate accounting subsystems.

If I can provide additional information, please let me know. Thank you.

C: Pat Gervais, Legislative Fiscal Division
Brent Doig, Office of Budget and Program Planning
Randi Hood, Office of State Public Defender
Harry Freebourn, Office of State Public Defender

FY 2006 Indigent Defense Actual Expenditures Paid by Judicial Branch

Prepared by Office of the Court Administrator, February 1, 2007

Case Type	Acct	SABHRS Account Description	FY 2006 Base Expenditures	Supplemental Expenditures	Total
Criminal	62108	Court Reporting - Transcripts DC	\$ 109,776	\$ -	\$ 109,776
	62116	Evaluations DC	693,234	-	693,234
	62162	Witness Fees-DC	202,564	-	202,564
	62496	Witness Travel-DC	12,561	-	12,561
	62109A	Public Defender-Office DC	1,381,820	1,716,089	3,097,909
	62109G	Public Defender Contract - DC	111,961	-	111,961
	62109M	Public Defender Court Appointed-DC	3,983,378	760,554	4,743,932
	62109S	Private Investigator-DC	416,365	-	416,365
Criminal Total			\$ 6,911,659	\$ 2,476,642	\$ 9,388,302
Involuntary Commitment	62108I	Court Reporting - Transcripts DI	\$ 1,104	\$ -	\$ 1,104
	62109F	Public Defender Office - DI	55,226	-	55,226
	62109L	Public Defender Contract - DI	57,626	-	57,626
	62109R	Public Defender Court Appointed-DI	119,653	-	119,653
Involuntary Commitment Total			\$ 233,608	\$ -	\$ 233,608
Juvenile	62108J	Court Reporting - Transcripts DJ	\$ 1,794	\$ -	\$ 1,794
	62109D	Public Defender Office - DJ	294,465	-	294,465
	62109J	Public Defender Contract - DJ	81,792	-	81,792
	62109P	Public Defender Court Appointed DJ	368,670	-	368,670
	62109U	Private Investigator-DJ	9,345	-	9,345
	62162J	Witness Fees-DJ	1,072	-	1,072
Juvenile Total			\$ 757,139	\$ -	\$ 757,139
Marriage Resolution	62109	Public Defender Costs Other	\$ 14,179.37	\$ -	\$ 14,179.37
	62108R	Court Reporting - Transcripts DR	952	-	952
Marriage Resolution Total			\$ 15,131.37	\$ -	\$ 15,131.37
Youth In Need of Care	62108N	Court Reporting - Transcripts DN	\$ 33,238	\$ -	\$ 33,238
	62109C	Public Defender Office - DN nonGAL	233,352	-	233,352
	62109I	Public Defender Contract - DN nonGAL	11,854	-	11,854
	62109O	Public Defender Court Appointed-DN nonGAL	1,298,287	-	1,298,287
	62109T	Private Investigator-DN	915	-	915
	62162N	Witness Fees-DN	5,890	-	5,890
Youth In Need of Care Total			\$ 1,583,535	\$ -	\$ 1,583,535
Grand Total			\$ 9,501,072	\$ 2,476,642	\$ 11,977,714

Note: Expenditures paid from the supplemental were not included in the FY 2006 Base and are therefore included in a separate column.